

**REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 1-10 and 12-25 are pending in the application subsequent to entry of this Amendment.

**Amendments to the Claims**

The claims have been amended in order to more particularly point out and distinctly claim that which applicants regard as their invention and to direct them to preferred aspects of the disclosure.

Independent claims 1 and 2 have been amended to track the description of the invention found in the paragraph bridging pages 3 and 4 of the description, that is by not providing any taste or specific note of the yeast extract itself.

Claim 11 has been canceled to reduce issues and the dependencies of claims 5 and 6 have been amended to reduce issues, as discussed below.

***Claim rejections – 35 USC §112 - claims 1- 25***

**Claims 1 and 2**

As the term “minimal” has been deleted from claims 1 and 2 thus the objection of the Examiner has been overcome.

**Claims 5 and 6**

As claims 5 and 6 are now dependent on claim 3, there is sufficient antecedent basis for this limitation.

**Claim 11**

Since claim 11 has been deleted this rejection is moot.

***Claim rejections 35 USC §102 (claims 1, 7-9 and 11)***

The Official Action includes two rejections based upon alleged anticipation. Before discussing the deficiencies of the cited documents and evidence countering rejection, it is important to bear in mind the legal requirements for establishing anticipation. To anticipate a claim, a single prior art reference must disclose each and every element of the claimed invention, either explicitly or inherently. *In re Schreiber*, 128 F. 3d 1473, 1477, 33 U.S.P.Q.2d 1429, 1431 (Fed. Cir. 1997), citing *Glaxo Inc. v. Novopharm Ltd.*, 52 F.3d 1043, 34 U.S.P.Q.2d 1565 (Fed. Cir. 1995); *Verdegall Bros., Inc. v. Union Oil Co.*, 814 F. 2d 628, 631, 2 U.S.P.Q.2d 1501, 1503 (Fed. Cir. 1987) *cert denied*, 484 U.S. 827 (1987).

The Examiner argues that Potman discloses a method for improving a fatty flavor profile

in a reduced fat food that meets the limitations in claim 1 prior to the above amendment. This is not so.

Amended claim 1 relates to a method to enhance the specific fat note in the mouthfeel of a food with a reduced amount of fat making it more similar to the mouthfeel of the corresponding full-fat food by not providing any taste or specific note of the yeast extract itself by addition to the food of a yeast extract comprising free amino acids and at least 8% w/w of 5'-ribonucleotides.

Applicants submit that Potman is not relevant for the assessment of novelty and/or patentability of any of the claims. The invention disclosed by Potman is simply an improved production process for a 5'-ribonucleotide containing yeast extract. The improvement resides in the conditions under which the RNA-degrading activity is carried out. By using oxidizing conditions, it was found that the 5'-ribonucleotide content was higher compared to not using these conditions. All of the examples in Potman describe several of these (comparative) experiments carried out anaerobically (flushed with helium or nitrogen) or aerobically (flushed with oxygen).

Moreover, nowhere in Potman, at any point, are experiments presented wherein the yeast extracts with higher 5'-ribonucleotide content are actually evaluated with respect to the fat note in the mouthfeel of a food. Potman is only referring to the fact that the yeast extract may impart or reinforce the flavor: see column 4, lines 33-51 and column 7, lines 32-36.

As evidenced by "Prepared Foods" and as cited by the Examiner, the addition of 5'-ribonucleotides rich extracts compensate, or take the place of, the flavor contributions of the fatty ingredients.

In contrast, the present invention enhances the specific fat note in the mouthfeel of a food with a reduced amount of fat, while not providing any taste or specific note (i.e. flavor) of the yeast extract itself.

Since Potman does not teach how to enhance the specific fat note in the mouthfeel of a food with a reduced amount of fat while not providing any taste or specific note of the yeast extract itself, claims 1, 7-9 and 11 are not anticipated by Potman as evidenced by "Creaminess: A Question of Flavor".

***Claim rejections - 35 USC §102(e) (claims 1-8 and 12-25)***

According to the Examiner, claims 1-8 and 12-25 (as previously presented) are rejected as being anticipated by Kortés et al as evidenced by DSM Food Specialties Maxarome® yeast extract. Applicants disagree.

Kortés relates to the use of yeast extract in beverages to improve the taste. The beverages of Kortés may be light, such as for example Coca Cola light, Lipton Iced Tea light or artificially sweetened soft drinks (p. 5, line 20), by which is meant that the beverages may be low in sugar.

According to the present invention (p. 4, lines 9-11) a "food with a reduced amount of fat" is defined as a food which comprises at least 25% w/w less fat per fixed amount of food than the corresponding full-fat food.

Coca Cola light, Lipton Iced Tea light, and artificially sweetened soft drinks have no full-fat equivalents and therefore are not "reduced fat foods" according to the present invention. Likewise, also vegetables and tomato juices, which the Examiner considers to be reduced fat foods, have no full-fat equivalents and are therefore not reduced fat foods according to the invention.

Thus, nowhere in Kortés is there any reference at the use of a 5'-ribonucleotides rich yeast extract in reduced fat food, Therefore, applicants submit that their claims 1-8 and 12-25 are not anticipated by Kortés.

***Claim rejections - 35 USC §103 (claims 1-3 and 8-11)***

According to the Examiner claims 1-3 and 8-11 (as previously presented) are unpatentable over Aoyanagi (in the provided machine translated text). This conclusion is incorrect.

Aoyanagi refers to the use of a 5'-ribonucleotides rich yeast extract to improve the flavor. Aoyanagi does not disclose a method to use of the 5'-ribonucleotides rich yeast extract to enhance the specific fat note in the mouthfeel. Aoyanagi does not disclose the use of the 5'-ribonucleotides rich yeast extract to enhance the specific fat note in the mouthfeel of a food with a reduced amount of fat.

Therefore, applicants' claims 1-3 and 8-11 are not suggested by Aoyanagi.


In this response applicants have addressed rejections directed to independent claims 1, 2 and 8 and, by inference, the remaining claims in the application as well as focusing on the four references used as primary references in each of the eight separate prior art-based rejections. As to the rejections based upon combinations of references, applicants submit that these references do not render obvious the claimed invention because all of the limitations of independent claims 1, 2 or 8 are not fairly taught or suggested in the cited documents. Moreover, claims depending from those independent claims are also not made obvious by the cited documents because the limitations of an independent claim are incorporated in their dependent claims; *see* MPEP §2143.03.

Reconsideration of this application and favorable action are solicited. Should the examiner require further information, please contact the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Arthur R. Crawford  
Reg. No. 25,327

ARC:eaw  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100